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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Mikell R. Scarborough, Master-In-Equity

Case No. 2014-CP-10-5608

James Bradley Williams and Robert Blair Kline, Jr. .... Plaintiffs/Appellants,

v.

Merle S. Tamsberg .... Defendant/Respondent,

FINAL BRIEF OF APPELLANTS

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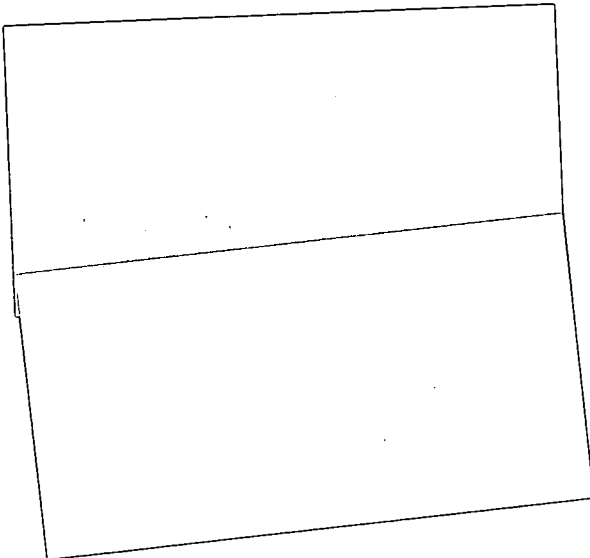

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STATEMENT OF ISSUES ON APPEAL

I. DID THE TRIAL COURT ERR IN FINDING THAT THE EASEMENT IN QUESTION IS AN EASEMEMNT APPURTENANT AND NOT AN EASEMENT IN GROSS?

II. DID THE TRIAL COURT ERR IN FINDING THAT THE RESTRICTIVE COVENANT AT ISSUE IS VALID AND RUNS WITH THE LAND?

III. DID THE TRIAL COURT ERR IN FINDING THAT PLAINTIFFS' CLAIMS ARE BARRED BY A STATUTE OF LIMITATIONS?

STATEMENT OF THE CASE

1. Procedural History

This case concerns a dispute over the existence of an easement. On September 12, 2014, Appellants filed their Summons and Complaint in the Court of Commons Pleas for Charleston County, South Carolina, seeking a declaratory judgment as to the viability of an alleged easement encumbering their property. (R. pp. 13-17). Respondent answered the Complaint, denying all claims and raising affirmative defenses. Subsequently, Appellants filed and served their Amended Complaint, and Respondent timely answered. (R. pp. 18-23). Thereafter, the parties engaged in limited discovery and then consented to a reference to the Charleston County Master in Equity. The Consent Order of Reference was filed on September 10, 2015.

The Master issued a scheduling order for the case providing that dispositive motions would be heard on March 2, 2016, and a trial date set thereafter. On February 10, 2016, Appellants filed their Motion for Summary Judgment and a supporting Memorandum and Affidavit. (R. pp. 24-62). On February 22, 2016, Respondent filed its Motion for Summary Judgment. On March 1, 2016, Respondent served a memorandum in support of its Motion for Summary Judgment and in opposition to Appellants' Motion for Summary Judgment and a supporting Memorandum. (R. pp. 63-88). A hearing was held on Appellant's Motion for Summary Judgment on March 2, 2016, and a hearing was held on Respondent's Motion for Summary Judgment on March 11, 2016, before the Master. (R. pp. 89-149). On March 29, 2016, the Master entered an Order granting Respondent's Motion for Summary Judgment and denying Appellants' Motion for Summary Judgment. (R. pp. 1-12). This appeal follows.

2. The Statement of the Facts

The properties involved are located at 45 and 47 Legare Street in the City of Charleston, South Carolina. (R. pp. 1, 170-76). Prior to 1911, 45 and 47 Legare Street comprised one property. (R. p. 1). In 1911, the owner W.G. Hinson divided the property, conveying to his niece Julia R. Dill the northern portion of the property, the parcel currently being identified as 47 Legare, and reserving for himself the southern portion, now known as 45 Legare. (R. pp. 1-2, 157-58). In the conveyance to Julia Dill, Hinson also conveyed "the full and free use and enjoyment as an easement to run with the land of the right of ingress, egress, and regress, in, over, and through and upon the alleyway eight (8) feet wide, as a drive way or carriage way, situate, lying being immediately to the south of the above described property, and being the southern boundary of said above described lot of land." (R. pp. 1-2, 157-58). This language is the genesis of the dispute. By its terms, the easement ran from Legare Street to the western property line of 45 Legare. (R. pp. 157-58).

Hinson died in 1917, and in 1919, his estate conveyed 45 Legare to his nieces Julia Dill, Pauline Dill and Frances Dill. (R. pp. 159-61). Julia Dill and Frances Dill conveyed their interests to Pauline Dill, and on November 2, 1936, Pauline Dill conveyed 45 Legare to Henry deSaussure, by deed recorded in Book F39 at Page 461 in the Charleston County R.M.C. (R. pp. 162-63). There is no reference to the easement in the conveyance. (R. pp. 162-63). Julia Dill remained the owner of 47 Legare.

45 Legare descended through the deSaussure family. When Julia Dill died in 1970, title to 45 Legare was vested in Margarette deSaussure Black, one of Henry deSaussure's daughters (hereinafter "Black"). (R. p. 164). South Carolina National Bank (the "Bank") was named executor of Julia Dill's estate and trustee of all assets. (R. p. 164).

In 1971, stating that "a question ha[d] arisen as to the extent of said easement," the Bank conveyed the western portion of the easement to Black for consideration of one hundred dollars. (R. pp. 164-67). The deed references a Cummings and McCrady plat for the description of the conveyance. (R. p. 164). On the referenced plat, the section severed from the former easement is enclosed within the letters F, C, G, H, F. (R. pp. 164, 177).

On the same day, Black executed a Covenant for 45 Legare, which "reaffirm[ed] the existence of said easement, to the extent as agreed upon by the parties," referencing the same Cummings and McCrady plat the Bank did in its conveyance of the same date to her. (R. pp. 165-68). Black also covenanted that no structure would be erected within the easement and no obstruction would be placed thereon. (R. pp. 165-68). The area encumbered by the easement is shown "enclosed within the letters B, E, F, H, B, the line F, H being the terminus thereof." (R. p. 177).

On July 8, 1971, the Bank conveyed 47 Legare to Nancy Linton, including the easement over 45 Legare, defined as enclosed by the letters B, E, F, H, B on the Cummings and McCrady plat, for a driveway or carriageway as previously conveyed by W.G. Hinson to Julia Dill. (R. pp. 169, 177). Linton conveyed 47 Legare to Merle and William Tamsberg on May 11, 1988, and the deed included the following: "Together with an easement, to run with the land, over an adjoining strip of land shown on [the Cummings and McCrady] plat as enclosed within the letters B, E, F, H, and B, for ingress, egress, and regress, in, over, or through, and upon the said strip of land as a driveway or carriageway for the owner of Number 47." (R. pp. 170-173, 177). Merle Tamsberg, the Respondent in this action, is the current owner of 47 Legare. (R. pp. 170-173).

Black died testate in 1997. (R. pp. 174-76). Her sons and legatees conveyed 45 Legare to James Bradley Williams and Robert Blair Kline, Jr. ("Williams and Kline"), Appellants in this action, on May 17, 2004. (R. pp. 174-76). The easement was not mentioned in the deed to Williams and Kline. (R. pp. 174-76).

STANDARD OF REVIEW

"When reviewing a grant of summary judgment, appellate courts apply the same standard applied by the trial court pursuant to Rule 56(c), SCRCP." *Turner v. Milliman*, 392 S.C. 116, 121-22, 708 S.E.2d 766, 769 (2011). "In ruling on motions for summary judgment, the court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party." *Johnston v. Bowen*, 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993). "At the summary judgment stage of litigation, the court does not weigh conflicting evidence with respect to a disputed material fact." *Lanier Constr. Co. v. Bailey & Yobs, Inc.*, 384 S.C. 275, 278, 681 S.E.2d 909, 911 (Ct. App. 2009). "Summary judgment is appropriate only when the pleadings, depositions, interrogatory answers, admissions, and affidavits, [if any] show that there is no genuine issue of material fact." *Shuler v. Tuomey Reg'l Med. Ctr., Inc.*, 313 S.C. 225, 227, 437 S.E.2d 128, 130 (Ct. App. 1993). To withstand a motion for summary judgment "in cases applying the preponderance of evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence." *Hancock v. Mid-South Mgmt. Co., Inc.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

Declaratory judgment actions are neither legal nor equitable; rather, the standard of review depends upon the nature of the underlying issues. *S.C. Dep't of Transp. v. Horry Cnty.*, 391 S.C. 76, 81, 705 S.E.2d 21, 24 (2011). "In a law case tried by the judge without

a jury, this court reviews for errors of law and reviews factual findings only for evidence which reasonably supports the court's findings." *Eldridge v. City of Greenwood*, 331 S.C. 398, 416, 503 S.E.2d 191, 200 (Ct. App. 1998). "In equitable actions, an appellate court may find facts in accordance with its own view of the preponderance of the evidence." *Horry Cnty.*, 391 S.C. at 81, 705 S.E.2d at 24. "When legal and equitable actions are maintained in one suit, each retains its own identity as legal or equitable for purposes of the applicable standard of review on appeal." *Id.* (citation and quotations marks omitted).

ARGUMENTS

I. THE TRIAL COURT ERRED IN FINDING THAT THE EASEMENT IN QUESTION IS AN EASEMENT APPURTENANT AND NOT AN EASEMENT IN GROSS.

Determining whether an easement is in gross or appurtenant is a question in equity because it involves the extent of a grant of an easement. *Rhett v. Gray*, 401 S.C. 478, 492, 736 S.E.2d 873, 881 (Ct. App. 2012). On appeal in an action in equity, the appellate court may find facts in accordance with its views of the preponderance of the evidence. *Grosshuesch v. Cramer*, 367 S.C. 1, 4, 623 S.E.2d 833, 834 (2005). Thus, this Court may reverse a factual finding by the trial court in such cases when the appellant satisfies the Court that the finding is against the greater weight of the evidence. *Campbell v. Carr*, 361 S.C. 258, 263, 603 S.E.2d 625, 627 (Ct. App. 2004).

Easements are either appurtenant or in gross.[1] An easement in gross is a mere personal privilege to use the land of another and cannot be transferred. *Windham v. Riddle,* 381 S.C. 192, 202, 672 S.E.2d 578, 583 (2009); *see also Rhett,* 401 S.C. at 492, 736 S.E.2d at 881. An appurtenant easement is one that "inheres in the land to which it is appurtenant,

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[1] A third type of easement is a commercial easement in gross, but that is not applicable to this dispute.

is essentially necessary to its enjoyment, and passes with it. An essential feature of a right of way appurtenant is that it must have one of its termini on the land to which it is claimed to be appurtenant." *Whaley v. Stevens*, 21 S.C. 221 (1884); *accord. Windham,* 381 S.C. at 202, 672 S.E.2d at 583; *Sandy Island Corp. v. Ragsdale,* 246 S.C. 414, 420, 143 S.E.2d 803, 806 (1965); *Rhett,* 401 S.C. at 492, 736 S.E.2d at 881; *Ballington v. Paxton,* 327 S.C. 372, 488 S.E.2d 882, 887 (Ct. App. 1997).

Here, the Bank asked Black for an affirmation of the easement in 1971, an act that leads to the inference the Bank was uncertain the original easement granted in 1911 by Hinson was transferable, or in other words, whether the original easement was a mere easement in gross. Black reaffirmed the existence of the encumbering easement in 1971 "to the extent as agreed upon by the parties." (R. p. 165-68). What was the extent of the original grant of easement and was it in gross or appurtenant? Was it transferable? The answer to the questions is found in the definition of an appurtenant easement and the plats in the record.

"An appendant or appurtenant easement must inhere in the land, concern the premises, have one terminus on the land of the party claiming it, and be essentially necessary to the enjoyment thereof." *Sandy Island,* 246 S.C. at 420, 143 S.E.2d at 806. "Unless an easement has all the elements necessary to be an appurtenant easement, it will be characterized as a mere easement in gross." *Springob v. Farrar*, 334 S.C. 585, 589, 514 S.E.2d 135 (Ct. App. 1999) (citing *Tupper v. Dorchester Cnty.,* 326 S.C. 318, 487 S.E.2d 187 (1997)). "An essential feature of an appurtenant easement is that it must have one of its termini in the dominant property." *Moore v. Reynolds,* 330 S.E.2d 542, 285 S.C. 574 (Ct. App. 1985). "The absence of a terminus on [the dominant estate] is fatal to [the] claim

of an appurtenant easement." *Shia v. Pendergrass,* 222 S.C. 342, 351, 72 S.E.2d 699 (1952); *see also Springob*, 334 S.C. at 589; *Windham,* 381 S.C. at 202, 672 S.E.2d at 583 (finding an easement to be in gross because the requirement of a terminus on the dominant estate was not met).

Hinson's original grant of easement was an "alleyway eight (8) feet wide... situate, lying being immediately to the south of the above described property [now 47 Legare], and being the southern boundary of said above described lot of land," and lay entirely on the reserved portion of the property, now known as 45 Legare. (R. pp. 157-58). The northern boundary of the alleyway and the southern boundary of 47 Legare were indistinguishable; at no point did the easement enter 47 Legare, but instead ran from Legare Street to the interior western lot line. (R. pp. 157-58). There was no terminus on 47 Legare, the termini being Legare Street and the western lot line of 45 Legare. (R. pp. 157-58). The site of the original easement is confirmed by the 1971 Cummings and McCrady plat, showing the area as enclosed within the letters B, E, F, G, C, H, and B (R. p. 177) and the Covenant executed by Black in 1971 (R. pp. 165-68). The absence of a terminus on 47 Legare, the dominant estate, is fatal to the claim the easement is appurtenant.

Here, the trial court relied on *Whaley v. Stevens*, 21 S.C. 221 (1884), to conclude that Respondent and her predecessors in title enjoyed an easement appurtenant. *Whaley*, however, is, at best, unclear on the issue of a terminus or the definition thereof. In a dispute in Greenville County over a reserved alleyway from street to lot line, the alleyway lying totally on the servient estate, the South Carolina Supreme Court found that the easement was in gross for lack of a terminus on the purported dominant estate. *Steele v. Williams,* 204 S.C. 124, 131, 28 S.E.2d 644, 647 (1944). The easement was created by reciprocal

deeds, and both the grantor and the grantee stated the easement was "being reserved for the joint use of the grantor and grantee, their heirs and assigns forever." *Id.* at 127, 28 S.E.2d at 645. The property under easement was an alley, twelve feet wide that entered the servient estate from the street and ended at the lot line opposite the point of entry. *Id.* A dispute arose when the property was subdivided, and the owner of one of the new lots sought to maintain access to his property via the alleyway. After finding the easement could not be an appurtenant easement because its terminus was not on the proposed dominant estate, the court then addressed the reservation language in the deeds:

> The fact that the words "heirs and assigns forever" were used does not and cannot change an easement in gross to an easement appurtenant to land. Even if it were admitted that the use of the words "heirs and assigns forever" connoted an intention of the parties to create an easement appurtenant to land, it would bring no advantage to the appellant. For to so do would contravene an established rule of law, and whatever may have been the intentions of the parties, it must yield to this rule of law so well established in this State. This alley way lies wholly on the land of respondent. It touches appellant's lot only as a boundary. To hold that said alley was appurtenant to appellant's land would be to disregard well established rules of law, and condemn land owned solely by respondent to the perpetual use of others.

Id. at 132, 28 S.E.2d at 647; *see also Ballington v. Paxton,* 327 S.C. 372, 381, 488 S.E.2d 882 (Ct. App. 1997).

Additionally, an easement cannot be transformed from an easement in gross to and appurtenant easement by the words "heirs and assigns forever," if the easement as created is an easement in gross, the grantor cannot change the nature of the easement by the words "to run with the land." Because the easement does not terminate on the proposed dominant estate, and thus, cannot be an appurtenant easement, the words "to run with the land" can have no effect. To find otherwise would disregard established law requiring an appurtenant easement to have a terminus on the dominant estate.

Black's affirmation in the Covenant of April 5, 1971, was limited to "the extent as agreed upon by the parties"; it did not add anything to the existing easement. (R. pp. 165-68). On the contrary, the conveyance from the Bank to Black of the same date diminished the area of the easement by shortening its length, and instead of the western lot line, the line F, H on the Cummings and McCrady plat became the new terminus. Line F, H lies completely on 45 Legare. (R. pp. 164, 177). There still was no terminus on the purported dominant estate, and thus, the easement remained an easement in gross.

A. The trial court erred in finding that the easement in question was an easement appurtenant because it is not essentially necessary to the enjoyment of the dominant estate.

Not only must an appurtenant easement have a terminus on the dominant estate, it must "be essentially necessary to the enjoyment thereof." *Ballington v. Paxton*, 327 S.C. 372, 380, 488 S.E.2d 882, 887 (Ct. App. 1997); *see also Sandy Island,* 246 S.C. at 420, 143 S.E.2d at 806. When the property was severed in 1911, it appears that there was a garage or carriage house to the rear of 47 Legare. (R. pp. 157-58). The 1911 deed stated the purpose of the eight foot alleyway was to provide a driveway or carriage way for 47 Legare. (R. pp. 157-58). A garage is shown on the Cummings and McCrady plat and is designated by the letter "G." (R. pp. 32, 177). In 1988, prior to N. Linton's conveyance of 47 Legare to the Tamsbergs, Charles L. Dawley, Jr. provided a plat of the property (the "Dawley plat"). (R. p. 178). Where the garage was denoted on the Cummings and McCrady plat, the notation on that same spot on the Dawley plat is for a "1-Story Stucco" structure. (R. pp. 177-78). Whether the one-story stucco structure was still a garage is unknown.

What is known is after the Tamsbergs purchased 47 Legare, they renovated the area where the garage was, and it is now part of the house, as shown in an undated plat by Palmetto Land Surveying. (R. p. 179). When Williams and Kline purchased 45 Legare in 2004, the work on the house was finished, and the Tamsbergs were building the wall which appears on the southern property line next to the foot gate, also on the line. (R. p. 154). The gate is not wide enough for a vehicle or carriage to pass, and is used primarily by workmen, on foot, accessing the back of 47 Legare. (R. p. 33).

The Palmetto Land plat shows another foot gate running from Legare Street onto 47 Legare immediately to the south of the house, located at the end of the concrete driveway. (R. p. 179). The gate provides access to the rear of 47 Legare, negating any need for the workmen or anyone else to access 47 Legare by the easement at 45 Legare. (R. p. 179). Currently, no vehicles or carriages are able to access 47 Legare via the easement because of the wall and the narrow opening left between the properties on the property line. (R. pp. 33, 177). *See Ballington,* 327 S.C. at 380, 488 S.E.2d at 887 (holding where there were other means of access other than that provided by the easement, the easement is not necessary to the estate). The purported easement is no longer essentially necessary to the enjoyment of 47 Legare, and thus, fails to satisfy another one of the four prongs required to qualify as an appurtenant easement.

B. The easement in question is an easement in gross, and thus, it is not transferable.

An appurtenant easement inheres with the land and may pass with the dominant estate upon conveyance. *Rhett v. Gray,* 401 S.C. 478, 736 S.E.2d 873, 881 (Ct. App. 2012). An easement in gross is a personal privilege to the owner of the land benefitted by the

easement and is not transferable. *Id.* Because the purported easement fails to satisfy the definition of an easement appurtenant, the trial court's Order should be reversed.

At Julia Dill's death, the Bank, as trustee, obtained the Covenant from Black affirming the easement. (R. p. 165-68). The Covenant was given to the Bank as trustee on April 5, 1971. (R. p. 165-68). The Bank conveyed 47 Legare to Nancy Linton on July 8, 1971, three months later. (R. p. 169). The language in the deed conveying the use of the easement to Nancy Linton was ineffective, as the affirmation in the Covenant was directed to the Estate of Julia Dill, and an easement in gross is not transferable. (R. pp. 165-69). Similarly, the language in the deed from Linton to the Tamsbergs conveying the use of the easement fails because the easement was in gross and not appurtenant. (R. pp. 170-73).

II. THE TRIAL COURT ERRED IN FINDING THAT THE RESTRICITVE COVENANT AT ISSUE IS VALID AND RUNS WITH THE LAND.

The underlying issue of whether the restrictive covenant is enforceable sounds in equity. *Hardy v. Aiken*, 369 S.C. 160, 165, 631 S.E.2d 539, 541 (2006); *see also Buffington v. T.O.E. Enters.*, 383 S.C. 388, 391, 680 S.E.2d 289, 290 (2009) ("An action to enforce restrictive covenants by injunction is an action in equity."). On appeal from an equitable action, an appellate court may find facts in accordance with its own view of the evidence. *Grosshuesch*, 367 S.C. at 4, 623 S.E.2d at 834. Thus, this Court may reverse a factual finding by the trial court in such cases when the appellant satisfies the Court that the finding is against the greater weight of the evidence. *Campbell*, 361 S.C. at 263, 603 S.E.2d at 627.

Respondent argues that if the alleged easement at issue has terminated, she has a valid restrictive covenant running with the land. The argument fails because the intent of the parties is clearly set out in the Covenant. In 1971, stating that "a question ha[d] arisen

as to the extent of said easement," the Bank conveyed the western portion of the easement to Black for consideration of one hundred dollars. (R. p. 164). The deed references a Cummings and McCrady plat for the description of the conveyance. (R. p. 164). On the referenced plat, the section severed from the former easement is enclosed within the letters F, C, G, H, F. (R. p. 177).

On the same day, Black executed a Covenant for 45 Legare, which "reaffirm[ed] the existence of said easement, to the extent as agreed upon by the parties," referencing the same Cummings and McCrady plat the Bank referenced in its conveyance of the same date to her. (R. pp. 165-68). Black also covenanted that no structure would be erected within the easement and no obstruction would be placed thereon. (R. pp. 165-68). The area encumbered by the easement is shown "enclosed within the letters B, E, F, H, B, the line F, H being the terminus thereof." (R. pp. 165-68).

"Words of a restrictive covenant will be given the common, ordinary meaning attributed to them at the time of their execution." *Taylor v. Lindsey*, 332 S.C. 1, 4, 498 S.E.2d 862, 863 (1998). "[T]he paramount rule of construction is to ascertain and give effect to the intent of the parties as determined from the whole document." *Id.* at 4, 498 S.E.2d at 863-64 (quotation marks omitted). When "the language imposing restrictions upon the use of property is unambiguous, the restrictions will be enforced according to their obvious meaning." *Shipyard Prop. Owners' Ass'n v. Mangiaracina*, 307 S.C. 299, 308, 414 S.E.2d 795, 801 (Ct. App. 1992). "A restriction on the use of property must be created in express terms or by plain and unmistakable implication, and all such restrictions are to be strictly construed, with all doubts resolved in favor of the free use of property." *Taylor*, 332 S.C. at 5, 498 S.E.2d at 864.

Here, the language of the Covenant states it is to "reaffirm the existence of said easement," and "to the extent as agreed upon by the parties." (R. pp. 165-68). But importantly, while the parties attempted to reaffirm the easement rights, the clear language of the Covenant fails to grant any access or use rights. (R. pp. 165-68). It merely prohibits building any structure on the 8 foot wide strip and prohibits placement of any obstruction or impediment. (R. pp. 165-68). Strict construction requires a conclusion that the Covenant provides no access to the owner of 47 Legare.

III. THE TRIAL COURT ERRED IN FINDING THAT APPELLANTS' CLAIMS ARE BARRED BY A STATUTE OF LIMITATIONS.

Statutes of limitation are not applicable to equitable causes of action. *See Dixon v. Dixon*, 362 S.C. 388, 400, 608 S.E.2d 849, 855 (2005) ("This Court has held that the statute of limitations does not apply to actions in equity."). Here, Plaintiffs seek an equitable remedy through their declaratory judgment causes of action. Our courts have held that "a suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue. An issue, essentially one at law, will not be transformed into one in equity simply because declaratory relief is sought." *Felts v. Richland Cnty.*, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991). The character of an action as legal or equitable is determined by the main purpose of the complaint, the nature of the issues as raised by the pleadings or the pleadings and proof, and the character of the relief sought under them. *Ins. Fin. Servs., Inc. v. S.C. Ins. Co.*, 271 S.C. 289, 293, 247 S.E.2d 315, 318 (1978).

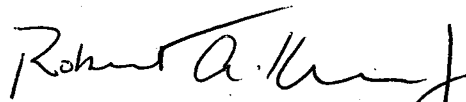
Here, Plaintiffs seek the equitable remedy of injunctive relief, so the main purpose of the complaint is equitable in nature. Accordingly, the trial court's statute of limitations conclusions are invalid. Further, even if the court finds an applicable legal claim making a statute of limitations applicable, for a declaratory judgment to exist, there must be a

justiciable controversy. As the evidence shows, Respondent never used the alleged easement since their purchase in 2004. (R. p. 154). Only when Respondent approached Appellants in 2014 and suggested she would be tearing down Appellants' fence and she would "be using [Appellants'] driveway as easement to the back" did this controversy arise. (R. pp. 152-153). Accordingly, the claim was brought within any applicable statute of limitations, or there is at least a question of fact as to the issue.

CONCLUSION

For the foregoing reasons, Appellants request that the Court reverse the trial court's Order and remand the case to the trial court for further proceedings.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

RECEIVED
OCT 19 2016
SC Court of Appeals

The Honorable Mikell R. Scarborough, Master-In-Equity

Lower Court Case No. 2014-CP-10-5608
Appellate Case No. 2016-000886

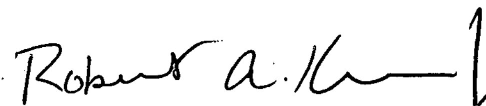
James Bradley Williams and Robert Blair Kline, Jr., ... Appellants.

v.

Merle S. Tamsberg, ... Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that Final Brief of Appellants complies with Rule 211(b), SCACR.



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October 17, 2016

Charleston, South Carolina

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PROOF OF SERVICE

The undersigned hereby certifies that on October 17, 2016, I served counsel of record in the foregoing matter with a copy of the **Final Brief of Appellants** by depositing same in the United States Mail with proper postage affixed, addressed as follows:

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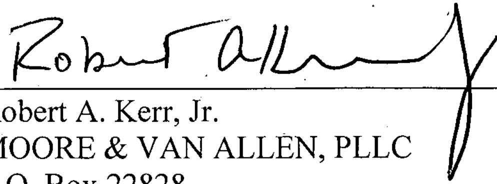

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